

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

BAIRD TREE COMPANY, INC. and)	
BOBBY D. BAIRD,)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	
PLATEAU ELECTRIC COOPERATIVE, and)	
GALLOWAY CONSTRUCTION, LLC,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant, Plateau Electric Cooperative (“Defendant”), pursuant to 28 U.S.C. §1441, respectfully removes this case to the United States District Court for the Eastern District of Tennessee. The grounds for removal are as follows:

1. On or about June 25, 2013, a civil action was filed against Defendant in the Circuit Court for Scott County, Tennessee, entitled Baird Tree Company, Inc. and Bobby D. Baird v. Plateau Electric Cooperative, Civil Action No. 8540. The original complaint only asserted claims under state law and was not otherwise removable to this Court.

2. On or about December 9, 2014, Plaintiff filed in the state court action an Amended Complaint asserting for the first time a claim under the Sherman Anti-Trust Act, 15 U.S.C. §§ 1 et seq. This was the first time a claim was asserted that would give rise to federal court jurisdiction under 28 U.S.C. §1331.

3. True and correct copies of the civil summons and original Complaint served by Plaintiffs upon Defendant on or about June 25, 2013 are attached hereto as Exhibit 1.

4. True and correct copies of the summons and Amended Complaint sent by Plaintiffs and received by Defendant on December 11, 2014 are attached hereto as Exhibit 2.

5. In addition to the Plaintiffs' civil summonses, Complaint and Amended Complaint, pursuant to 28 U.S.C. § 1446(a), copies of the following additional pleadings and orders served upon Defendant in the state court are attached hereto as exhibits:

- a. Plaintiffs' Motion to Quash Notice of Hearing (Exhibit 3);
- b. Plaintiffs' Motion to Compel Discovery and Motion to Enlarge Time to Respond to Defendant's Motion to Dismiss (Exhibit 4);
- c. Agreed Order re Pending Motions (Exhibit 5);
- d. Plaintiff's Motion to Compel Discovery (Exhibit 6);
- e. Plaintiffs' Renewed Motion to Compel Discovery and Plaintiffs' Motion to Hold in Abeyance Defendant's Motion for Protective Order (Exhibit 7); and
- f. Plaintiff's Supplemental Motion to Compel Discovery and Plaintiffs' Motion to Stay Hearing on Defendant's Motion to Dismiss (Exhibit 8).

6. Should the Court wish to have copies of Defendant's motions and responses to Plaintiffs' motions filed in the state court action, Defendant shall provide a copy of same.

7. This Notice of Removal is filed within thirty (30) days of Defendant's receipt of a copy of an amended pleading, the Amended Complaint (Exhibit 2), from which it may first be ascertained that the case is one which is or has become removable, pursuant to 28 U.S.C. § 1446(b)(3).

8. This Notice of Removal is timely under the provisions of 28 U.S.C. §1446(b).

9. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. §1331, and

accordingly, the case may be removed to this Court by Defendant pursuant to 28 U.S.C. §1441(c), in that the Amended Complaint is a civil action in which a federal question arises under the laws of the United States. Plaintiffs allege in their Amended Complaint that Defendant violated the federal Sherman Antitrust Act, 15 U.S.C. §§ 1 et seq.

10. Defendant states that a copy of this Notice of Removal will be filed with the Clerk of the Circuit Court for Scott County, Tennessee, promptly after the filing of this Notice of Removal, as required by 28 U.S.C. § 1446(d). See Exhibit 9 (Notice of Removal being filed in state court).

11. The other party named as a defendant in the Amended Complaint, Galloway Construction, LLC, was first served with the Amended Complaint on January 5, 2015, and has informed Defendant's legal counsel that it gives its consent to, and joins in, the Defendant's removal of this case to this Court.

12. A civil cover sheet for this matter is attached as Exhibit 10.

WHEREFORE, Defendant prays that the above-described action pending in the Circuit Court for Scott Tennessee be removed therefrom to this Court.

Respectfully submitted this 6th day of January, 2015.

PLATEAU ELECTRIC COOPERATIVE

By: /s Jerome D. Pinn
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CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing Notice of Removal upon Plaintiff's legal counsel, David H. Dunaway, Esq., 100 South 5th Street, PO Box 280, LaFollette, TN 37766, and defendant Galloway Construction Company, 8447 Morgan County Hwy., Sunbright, TN 37872-3023, via first class mail, postage prepaid, on this 6th day of January, 2015.

/s Jerome D. Pinn

Jerome D. Pinn